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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,408	01/27/2004	Michael Eric Walker	J012004	2177

7590

02/15/2005

JONATHAN ORLICK
11443 Awenita Court
Chatsworth, CA 91311

EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,408

Applicant(s)

WALKER ET AL. 

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
Non-initialed and/or non-dated alterations have been made to the oath or declaration. Specifically, the first named inventor's country of citizenship has been altered by not initialed or dated. See 37 CFR 1.52(c).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yeager (US 1,924,824).

Claim Rejections - 35 USC § 103

Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeager in view of Coleman (US 2002/0020405) in further view of Mitsui (JP 7-42474). Yeager is considered to clearly anticipate the claimed invention except for the claimed heat resistant level indicator. Coleman, another oven stand, is considered to disclose a heat resistant level indicator at paragraph 38. It would have been obvious to one skilled in the art to combine the clearly anticipated teachings of Yeager with the heat resistant level indicator, as considered disclosed in Coleman, for the purpose of determining when the cooking device level is appropriate for cooking. However the specific ball bearing and channel level indicator may not be expressly disclosed to those skilled in

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the art with respect to the teachings of Yeager in view of Coleman. Therefore, even though various types of level indicators are expressly disclosed in Yeager in view of Coleman, the basis for level indication can be any type of level indicating device, but since a ball bearing and channel level indicator is recited in the claims, it would have been obvious to one skilled in the art to combine the teachings of Yeager in view of Coleman with the ball bearing and channel level indicator disclosed in Mitsui, another level indicator, for the purpose of determining an inclination of a supporting object. In the alternative, Yeager in view of Coleman is considered to disclose the claimed invention, except for the obvious design choice of a ball bearing and channel level indicator. It would have been an obvious matter of design choice to those skilled in the art to combine the obviating teachings of Yeager in view of Coleman with any type of level indicator, since the level indicator disclosed in Yeager in view of Coleman will have substantially the same function, using substantially the same means, with substantially the same result as the recited ball bearing and channel level indicator.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yeager in view of Freeon (US 1,284,299). Yeager is considered to disclose a method comprising:

providing a Dutch Oven stand means having an upwardly open, uncovered and unobstructed receptacle defined by solid, non-perforated sides and a solid, non-perforated base; and said base has a plurality of foldable legs of predetermined fixed length rotatably coupled to said base (please see page column 1 lines 78-93);

folding out said legs (please see page column 1 lines 100-110);

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placing said stand onto a solid surface (please see page column 1 lines 48-53);
putting solid cooking fuel into said receptacle (please see page column 2 lines 47-63). Yeager is considered to disclose the claimed invention, except for the claimed step of placing a Dutch oven onto a base. Freeon, another cooking method, is considered to disclose a step of placing a Dutch oven onto a base at column 1 lines 12-15. It would have been obvious to one skilled in the art to combine the teachings of Yeager with the step of placing a Dutch oven onto a base for the purpose of allowing Dutch Oven or any other type of kettle-style cooking method.

Conclusion

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 571 272 4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMG
February 11, 2005

